

DEC 05 2005

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RAUL RODRIGUEZ GONZALEZ;
SUSANA BEAS GONSALEZ,

Petitioners,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

Nos. 04-73044
04-75141

Agency Nos. A73-969-909
A75-762-890

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted November 8, 2005**

Before: WALLACE, LEAVY, and BERZON, Circuit Judges.

In consolidated petitions for review, Raul Rodriguez Gonzalez and Susana Beas Gonzalez, natives and citizens of Mexico, petition for review of the Board of Immigration Appeals' ("BIA") decision denying their motion to reconsider on the

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** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

ground that they failed to show they were prejudiced by ineffective assistance of counsel. We have jurisdiction under 8 U.S.C. § 1252. We review the denial of a motion to reconsider for abuse of discretion. *Mohammed v. Gonzales*, 400 F.3d 785, 791 (9th Cir. 2005). We review de novo due process claims based on ineffective assistance of counsel. *Lin v. Ashcroft*, 377 F.3d 1014, 1023 (9th Cir. 2004). We deny the petitions for review.

The BIA did not abuse its discretion in denying petitioners' motion to reconsider. Beas Gonzalez failed to establish plausible grounds for relief because she did not challenge the immigration judge's finding that she lacked the required ten years of physical presence. *See id.* at 1024, 1027 (holding that an ineffective assistance of counsel claim requires alien to establish prejudice by showing "plausible grounds for relief"). Rodriguez Gonzalez failed to establish plausible grounds for relief because the current record, absent further information about the seriousness of his son's asthma and his mother's illnesses, is insufficient to support a determination that his qualifying relatives would suffer exceptional and extremely unusual hardship if he were removed. *Cf. Iturribarria v. INS*, 321 F.3d 889, 902-03 (9th Cir. 2003).

PETITION FOR REVIEW DENIED in No. 04-73044.
PETITION FOR REVIEW DENIED in No. 04-75141.

